IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION No.2065 of 2007.

Hanmant Lahu Dhale. ..Applicant.

Vs.

The State of Maharashtra ..Respondent.

Mr V. M. Parshuram, Advocate i/b B. R. Patil, Advocate for the applicant.

Ms M.M. Deshmukh, A.P.P for the State.

CORAM: V.C. DAGA,J.
DATED: 19TH JULY, 2007.

P.C.:-

1. Leave to amend to delete name of the applicant No.2 Audumbar from the array of the applicants.

2. The amendment to be carried out forthwith.

3. Heard learned counsel for the applicant and learned APP for the State.

4. The applicant is seeking bail in C.R. No.8/07 registered with Pandharpur Police Station, District Solapur for the offence punishable under Sections 302, 201 read with Section 34 of the I.P.C.

5. Having heard rival parties, the only

material against the applicant sought to be relied upon by the prosecution is the complaint lodged by one Laxman Dada Dhale who is not eye-witness to the incident.

6. The second piece of evidence sought to be relied upon by the prosecution is the statement given by the co-accused Audumbar Ramchandra Rasal who tried to implicate the present accused.

7. Learned counsel appearing for the applicant submits that both the pieces of evidence, prima facie, do not connect the present applicant with the offence alleged against him. The reliance is placed on the judgment of the Apex Court in the case of **Prakash Kumar alias Prakash Bhutto vs. State of Gujarat (2007) 4 SCC 266;** wherein, the Apex Court held that the confession of the co-accused is fragile and feeble piece of evidence. It can only be used to support other evidence if any, by the prosecution.

8. At this stage, no other supporting or corroborative piece of evidence is available on record so as to enable me to rely on the confession of the co-accused; wherein, the present applicant is implicated.

9. So far as the consideration which normally should weigh with the court in granting bail are to be found in the case of **Jayendra Saraswathi Swamigal vs. State of Tamilnadu**, **2005, Supreme Court Cases (Cri) 481.** It is no doubt true that the offence by nature is serious one. However, considering the weak piece of evidence in the form of confession, I am inlined to grant bail to the present applicant Hanmant Lahu Dhale on the following terms and conditions.

a] the applicant-accused Hanmant Dhale be released on bail in the sum of Rs. 25,000/- with one or two sureties in the like amount.

b] the applicant shall report Pandharpur Town Police Station,District Solapur once in a week i.e. on Friday between 3.00 to 5.00 p.m. till conclusion of the trial.

c] the applicant shall not pressurise prosecution witnesses and that he shall co-operate the Investigating agency, if required.

d] the applicant shall not enter village Bakhuri, tq. Pandharpur visit till conclusion of the trial.

. The application is allowed in the above terms.

(V.C. DAGA,J.)